

**INSTRUCTIONS FOR FILING A  
CIVIL ACTION ON  
YOUR OWN BEHALF  
IN THE  
UNITED STATES  
DISTRICT COURT  
FOR THE DISTRICT OF  
MARYLAND**

Rev. 6/2006

## **INSTRUCTIONS FOR FILING A CIVIL ACTION ON YOUR OWN BEHALF**

These instructions are designed to help you understand basic court procedures in civil actions. COURT STAFF CANNOT GIVE YOU LEGAL ADVICE.

These instructions do not cover all circumstances, nor all types of cases. It is your responsibility to comply with the Federal Rules of Civil Procedure, the Local Rules of this court and any statutes and rules which may apply to your particular case. If you are filing a prisoner civil rights action under 42 U.S.C. §1983, a habeas corpus petition under 28 U.S.C. §2241 or §2254, or a motion to vacate or set aside sentence under 28 U.S.C. §2255, there are special forms and instructions available from the clerk's office.

### **How to file a complaint**

The first step in filing a lawsuit is to prepare a complaint. The court has forms available for filing complaints for employment discrimination and appealing a denial of Social Security benefits, as well as a general complaint form. You are not required to use these forms, although you may find it helpful to look them over.

If you prepare your own complaint it must be legibly handwritten or typed. All pages should be 8

½" by 11". The complaint and all other papers filed with the Court should be two-hole punched at the top. The first page should begin with the case caption. The caption includes the name of the court, the names and addresses of all the parties, and a blank space for the case number. The case number will be filled in by court staff once a number has been assigned.

### ***SAMPLE CAPTION FOR COMPLAINT***

#### **IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MARYLAND**

MARY SMITH, :  
100 North Calvert Street :  
Baltimore, Maryland 21202 :  
Plaintiff

vs. : Civil Action No.:

JOHN DOE, :  
101 West Lombard Street :  
Baltimore, Maryland 21201 :  
Defendant

The body of the complaint is made up of numbered paragraphs. Explain the facts of your claim, the

legal basis, why you believe this court has jurisdiction, and what relief you want. It is not necessary to cite specific cases. At the end, sign and date the complaint. Underneath your signature type or print your full name, address, phone number, and fax number (if you have one). This information must appear on every pleading, motion, or other paper you file.

To file a lawsuit you must file the original complaint with the court, and one copy of the complaint for each defendant you name. If the defendant is an agency of the United States, or an officer or employee of the United States who is being sued for acts or omissions related to his/her employment, you must provide five copies of the complaint. You should keep a copy of the complaint for your own records. **ALL COPIES MUST BE IDENTICAL TO THE ORIGINAL.**

Along with your complaint you must submit a summons for the defendant and one copy of the summons for the court. If more than one defendant is named AND the time for each defendant to file an answer is the same, you may list the defendants on one summons as long as you provide a copy for each defendant. Use the summons forms provided by the court. Fill in the caption, leaving the case number blank. In the space on the summons form for the name and address of plaintiff's attorney, fill in your own name and address. The number of days

a defendant will have to answer the complaint will vary depending on the type of claim and the defendant. It is your responsibility to fill in the correct number of days the defendant(s) has for filing an answer. In most civil actions, if the defendant is not an agency, officer or employee of the United States, he or she will have twenty (20) days in which to answer. If the defendant is an agency of the United States, or an officer or employee of the United States who is being sued for acts or omissions related to his/her employment, he or she will have sixty (60) days in which to answer. An exception is that if the defendant is an agency of the United States AND the complaint is brought under the Freedom of Information Act, the time for filing an answer is thirty (30) days. **REMEMBER, THE TIME FOR FILING AN ANSWER RUNS FROM THE DATE THE COMPLAINT AND SUMMONS ARE SERVED, NOT THE DATE THEY ARE ISSUED.**

You also must submit a civil cover sheet, along with one copy for each defendant. This is simply an information form which is used by the court when opening your case.

### **Filing fees**

There is a filing fee of \$350.00 for most types of civil lawsuits. The fee must be paid at the time your complaint is filed. If you are paying by check or money order, it should be made payable to “Clerk, United States District Court.” The court also accepts major credit cards. If you are unable to pay the filing fee you may file a motion for leave to proceed *in forma pauperis*. If the court grants this request it means that you will not have to pay the filing fee at the time your complaint is filed. Form motions for leave to proceed *in forma pauperis* are available from the court. When completing the forms it is very important that you answer all questions relating to your income, assets, and liabilities. If you fail to provide complete and accurate information your request may be denied or you may be required to provide additional information. If your request is denied you will be allowed a reasonable opportunity to pay the fee.

### **What the court does**

If you submit the appropriate number of copies of the necessary forms, a case will be “opened.” Opening a case involves assigning a case number and a judge, and entering basic information on the court’s computerized docket system. The court uses electronic filing in most civil cases. If your case is subject to electronic filing, court staff will

scan any documents you file.

Once a case is opened, it is sent to the assigned judge for his or her review. The judge will look at any motions filed with the complaint and frequently will look at the complaint to see if it contains all the necessary information. A judge may require you to supplement your complaint with additional information.

### **Service**

Service of process refers to notifying a defendant that a lawsuit has been filed, what it is about, and the time for filing a response. It must be done in a way specified by court rules. Generally, service requires giving the defendant a summons issued by the court, a copy of the complaint, and copies of any motions or other documents filed along with the complaint. If there is more than one defendant, each defendant must be served.

If you file a motion for leave to proceed *in forma pauperis*, the court will not issue a summons for the defendant(s) until a ruling is made on the motion. If you pay the filing fee, the summons may be issued either before or after the assigned judge has had an opportunity to review the case. This will depend on a number of factors including the type of case and work load of the court.

If you are granted leave to proceed *in forma pauperis*, the court may ask the United States Marshal to serve the summons and complaint. If the Marshal is asked to make service you will be sent forms to fill out instructing him where to serve the complaint. It is your responsibility to provide an address where service can be made on the defendant.

***HINT***

If the defendant is a company which does business in Maryland, the easiest way to serve the summons and complaint is on the resident agent. The resident agent is a person or company with a Maryland address who is authorized to accept service of process. You can find out if a company has a resident agent by contacting the Maryland Department of Assessments and Taxation, Charter Information, at (410) 767-1340 or at <http://www.dat.state.md.us/bsfd>

If you pay the filing fee, when the summons(es) is issued, it will be returned to you along with the copies of the complaint for the defendant(s). It is your responsibility to see each defendant is served with the summons and complaint. The Marshal does not serve summonses and complaints in cases where the filing fee has been paid.

The procedures for effecting service are in Federal Rule of Civil Procedure 4 and Md. Rules 2-121 through 2-125. The two most common ways to effect service are personal delivery and certified mail. Personal delivery involves giving the defendant copies of the summons, complaint, and any other required documents. Certified mail involves sending the defendant copies of the summons, complaint, and any other required documents by certified mail - "Restricted Delivery - show to whom, date, address of delivery."

Service may be made by anyone who is at least 18 years old and not a plaintiff or defendant in the case. There are many private process servers who, for a fee, will serve the defendant(s).

The person who effects service is expected to file with the court a "return of service." This is a statement under oath explaining when service was made and how.

An alternative to serving a summons is to ask the defendant to waive service. The procedure for requesting waiver is set out in Federal Rule of Civil Procedure 4(d) and Local Rule 103.2.c. Forms for requesting waiver are available from the court.

**WARNING: IF SERVICE IS NOT MADE WITHIN 120 DAYS FROM THE DATE THE COMPLAINT IS FILED, THE CASE MAY BE**

DISMISSED. YOU MAY REQUEST AN EXTENSION OF THIS PERIOD IF YOU CAN SHOW GOOD CAUSE WHY SERVICE WAS NOT MADE.

### **What happens after service is made**

Once a defendant is served several things may happen: the defendant may file an answer; the defendant may file a motion; or the defendant may do nothing. Note: if there is more than one defendant a combination of these things may happen.

If the defendant files an answer the judge assigned to the case will issue a scheduling order. A scheduling order sets deadlines for doing or filing certain things in a particular case. It may include deadlines for completing discovery, filing motions, and/or filing status reports. Most scheduling orders do not set trial dates.

There are a number of different motions which may be filed before an answer is filed. If the motion is a routine request for an extension of time in which to answer it will most likely be granted unless you promptly file an opposition and have a good reason why it should not be granted. For more substantive motions, unless directed otherwise, you will be allowed 14 days to file a response. You may request an extension of time in which to file a

response.

If the defendant files nothing within the time for filing a response, you may request entry of default judgment under Federal Rule of Civil Procedure 55.

### **Discovery**

A scheduling order may contain a deadline for the completion of discovery. Discovery is the process of obtaining information and evidence relevant to your case. NOTE: THERE ARE SOME TYPES OF CASES (SOCIAL SECURITY APPEALS FOR EXAMPLE) IN WHICH DISCOVERY DOES NOT OCCUR. There are many different ways to obtain discovery. The most common are: interrogatories (written questions), requests for production of documents, and depositions (a recorded questioning of a potential witness under oath). Most discovery requests are directed to parties in the case, although under certain circumstances discovery can be obtained from non-parties. Discovery is governed by Federal Rules of Civil Procedure 26 through 37 and Local Rule 104.

If your case is one in which discovery occurs there are certain things you should keep in mind. Be sure to make your discovery requests promptly so that the party to whom they are directed has sufficient time to answer or object before the discovery deadline. It also is important for you to respond to

any discovery requests you receive. A party who does not respond to a discovery request may be subject to sanctions. Do not send copies of discovery requests or answers to the court unless directed by the court to do so. Send a copy of the request to the party from whom you are seeking discovery and keep the original. Send the original of any responses you provide to the party seeking discovery and keep a copy for your records.

### **Counsel**

You are not entitled to have counsel appointed to represent you in a civil action. A judge has the authority to appoint counsel in exceptional circumstances. If you want a judge to consider appointing counsel to represent you, you may file a motion for appointment of counsel. In the motion you should explain why you think you need an attorney and any efforts you have made to obtain counsel.

If you can afford to hire an attorney but haven't been able to locate one, many local bar associations have lawyer referral services. Some offer consultations with attorneys at reduced rates. Below is a listing of some of the lawyer referral services in Maryland.

Lawyer Referral Service of Anne Arundel County  
Bar Association - 410-280-6961

Lawyer Referral and Information Service of  
Baltimore City - 410-539-3112

Lawyer Referral Service of Baltimore County Bar  
Association - 410-337-9100

Lawyer Referral Service of Caroline County -  
410-479-1343

Lawyer Referral Service of Carroll County  
(Reference Desk) - 410-857-1451 or 800-649-1090

Lawyer Referral Service of Frederick County  
(Reference Desk) - 800-649-1090

Lawyer Referral Service of Harford County Bar  
Foundation - 410-836-0123

Lawyer Referral Service of Howard County Bar  
Association - 410-313-2030

Lawyer Referral Service of Montgomery County  
Bar Association - 301-279-9100

Lawyer Referral Service of Prince George's County  
Bar Association - 301-952-1440

Court staff CANNOT recommend individual  
attorneys.

There are a number of organizations in Maryland which provide legal assistance to persons who cannot afford to hire an attorney. Most of these organizations have income eligibility requirements. Many only provide assistance with specific types of cases.

The largest legal services program in Maryland is the Legal Aid Bureau, Inc. It has a number of offices throughout the state. The Central Office is located at:

Legal Aid Bureau, Inc.  
500 East Lexington Street  
Baltimore, MD 21202  
410-539-5340

The Central Office can provide you with the address of the office closest to you and information about intake procedures. The Legal Aid Bureau generally does not accept cases where the only relief being sought is monetary damages.

Information about other providers of legal services is available on the Maryland Legal Services Corporation's web site: <http://www.mlsc.org>

### **Things to know about representing yourself**

Once your complaint is assigned a case number everything you receive from the court about your

case will have the case number on it. Everything you send to the court other than the complaint and motion for leave to proceed *in forma pauperis* should have the case number on it. On pleadings, motions, and papers other than the complaint, you may use a shortened version of the case caption. The shortened version includes the name of the first plaintiff, the case number, and the name of the first defendant. It does not include addresses.

Documents filed with the court are available for public inspection unless they are sealed by a court order. To protect your privacy and that of others who may be mentioned in your case, you should not include social security numbers (except as required when appealing a denial of social security benefits), financial account numbers or dates of birth in documents you file with the court. If you believe you need to include this information in full or submit exhibits which have these numbers in full, you may request that they be filed under seal.

The court has two locations - one in Baltimore (Northern Division) and one in Greenbelt (Southern Division). Unless directed otherwise, all communications to the court about your case should be addressed to the clerk of the court in the division where your case has been assigned. The addresses are:

Clerk of the Court



United States District Court  
Northern Division  
101 West Lombard Street  
Baltimore, Maryland 21201

Clerk of the Court  
United States District Court  
Southern Division  
6500 Cherrywood Lane  
Greenbelt, Maryland 20770

**YOU MUST NOTIFY THE COURT AND ALL PARTIES, IN WRITING, OF ANY CHANGE IN YOUR ADDRESS. FAILURE TO DO SO MAY RESULT IN DISMISSAL OF YOUR CASE.**

After you file the complaint no communication about your case should be sent directly to any judge. If you want to ask the court to order something, you should file a motion. Pleadings and motions should be filed with the clerk and a copy should be mailed to the attorney representing the defendant(s) or directly to the defendant(s) if he/she does not have an attorney. It is important to include a certificate of service on anything you file after your complaint showing when you mailed copies and to whom they were sent. The certificate of service appears at the end of the pleading or motion and looks like the sample below.

***SAMPLE CERTIFICATE OF SERVICE***

**CERTIFICATE OF SERVICE**

I hereby certify that on this 1<sup>st</sup> day of June 2000, a copy of the foregoing Motion for Extension of Time was mailed, postage prepaid, to Samuel Barrister, Esquire, 200 Saint Paul Place, Baltimore, Maryland, 21202, counsel for Defendant John Doe.

\_\_\_\_\_  
(signature)

It is not necessary to state in the certificate of service that copies were sent to the court or to the clerk.

If you are filing a motion and/or memorandum which relates to discovery, you must file the original and one copy with the court. For other types of motions and memoranda you need only file the original. If you are filing a motion with many exhibits and providing an extra copy to the court would be a hardship, you may ask for permission to file only one copy of the exhibits. Do not file any motions or memoranda that are longer than fifty

pages unless you have received permission from the court. Most motions and memoranda should be much shorter than fifty pages.

You must sign every pleading, motion, and memorandum that you file. If more than one party is representing him/herself in a particular case, each party representing him/herself must sign each pleading, motion, or other paper submitted on behalf of that party.

There are certain issues that you are expected to try to reach an agreement with the opposing party about before asking the court to issue an order. If you want an extension of time in which to file something or are having a disagreement about discovery, you are expected to speak with counsel for the other party and try to reach an agreement **before** filing a motion. In your motion, or attached to it, you should include an explanation of what happened when you contacted opposing counsel, i.e., whether he/she agreed to your request or not.

The clerk of this court cannot give persons representing themselves and proceeding *in forma pauperis* blank subpoenas. If you want the court to issue subpoenas you must submit a motion explaining who you want to subpoena and why. Try to file the motion at least two weeks before you will need the subpoenas.

### **If you lose**

BEFORE filing suit you should consider the consequences of losing. Under limited circumstances the winning party may ask that you be ordered to pay his/her attorneys' fees. The winning party also is entitled to seek certain costs which it incurs during a law suit. These costs can include things such as deposition transcripts, witness fees, copy work expenses, etc. In many cases they can easily add up to thousands of dollars. It is common for a winning party to seek these costs from the losing party.

### **Appeals**

You may appeal a final decision of this court to the United States Court of Appeals for the Fourth Circuit. You should consult Federal Rule of Appellate Procedure 4 for the time limits for filing an appeal.

The filing fee for an appeal is \$455.00. If you cannot afford to pay the fee you may file a motion for leave to proceed *in forma pauperis* on appeal.

To file an appeal, you must file with the clerk of this court a notice of appeal along with one copy for the court and one copy for each attorney or *pro se* party in the case (other than yourself). A form notice of appeal is available from the clerk. You

also must submit to the clerk of this court either the filing fee or a motion for leave to proceed *in forma pauperis*.

### **Resources**

The forms referred to in this pamphlet can be obtained from the clerk's office. The clerk's office is open M-F, 9:00 to 4:00. It is closed on federal holidays and the day after Thanksgiving. Many of the forms can be downloaded from the court's web site: <http://www.mdd.uscourts.gov>. The Federal Rules of Civil Procedure and the Local Rules for the United States District Court for the District of Maryland also are available on the court's web site.

Some information about cases filed with the court is available on the internet. Docket sheets are available in all cases that are not sealed. Documents which were filed electronically also are available. You may access this information with no charge by using one of the public access computer terminals available in each courthouse. The information can be accessed from other locations for a fee of \$.08 per page. To access the information remotely you need to establish an account with the PACER Service Center. Information about PACER can be found at: <http://pacer.psc.uscourts.gov>.

Both federal courthouses have law libraries. The

library in the Baltimore courthouse is open to the public M-F, 8:30 to 5:00. Because of staffing, the hours of the library in the Greenbelt courthouse may vary. You can call the Greenbelt library at 301-344-0663 to find out when it is open.

Maryland circuit courts also have law libraries but some impose restrictions on their use by members of the public. Both the University of Maryland and the University of Baltimore law schools have law libraries. Many public libraries have basic legal materials such as court rules.

There are many sites on the internet with legal materials. One which was designed for use by Marylanders is the Peoples Law Library - <http://www.peoples-law.com>.

Additional information about the federal courts can be found at: <http://www.uscourts.gov>